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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/731,735 | 12/09/2003 | Glory F. Alcantara | KCX-700 (19456) | 5134 |
| 22827 | 7590 | 02/10/2006 | EXAMINER | |
| DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449 | | | HAND, MELANIE JO | |
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| DATE MAILED: 02/10/2006 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/731,735

Applicant(s)

ALCANTARA ET AL.

Examiner

Melanie J. Hand

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed October 17, 2005 have been fully considered but they are not persuasive.

With regard to applicant's argument that Fig. 26 taught by Nakanishi (UK '209) does not teach an overlapping region that is disposed entirely forward of the transverse centerline of the article, Examiner has withdrawn the existing rejection under 35 U.S.C. 102 ("102") over Nakanishi and has found new grounds of rejection of the independent claims under 102 as being anticipated by Molas. Therefore the argument is moot. The new grounds of rejection do not introduce any new prior art references.

With regard to applicant's argument that Nakanishi (UK '209) does not teach laterally inboard fold lines that are variably positionable relative to the pad lateral sides, Examiner agrees and has withdrawn the previous 102 rejection but has since found new grounds of rejection in the prior art of Molas. Again, these new grounds of rejection did not introduce any new prior art references.

With regard to applicant's argument that Molas ('618) does not teach a plurality of laterally inboard fold lines, Examiner disagrees. The structural feature of a plurality of lateral inboard folding lines finds no support in the disclosure and constitutes new matter. There is support for two fold lines, as are also taught in the prior art of Molas. Please see the rejection of claim 11 under 35 U.S.C. 112 stated in this Office action for further explanation.

With regard to applicant's argument that Molas does not teach wing portions, applicant is reminded of the definition and depiction of what constitutes wing portions in applicant's own disclosure. It is clear to Examiner in all figures showing wing portions 34 that the arrow

associated with the item number 34 points to the entire side area and there is no indication, description, or item number in the disclosure that indicates that wing portions 34 are not defined by the entire side portion, nor are there separate side flap or side edge regions that are defined in the specification or depicted in the drawings using a new item number. Therefore the wing portions 34 of the claimed invention are clearly anticipated by side areas 4,5 taught by Molas.

With regard to applicant's argument that Molas teaches that the side areas 4,5 are part of the pad portion 3, applicant is correct when referring to Molas' teaching of the use of liner 1 with a conventional panty. Molas also teaches that liner 1 is suitable for use with a thong panty, in which instance side areas 4,5 fold along embossed bias lines 2 and wrap around the crotch portion of a thong panty ('618, ¶ 0033), a function equivalent to the function of wing portions 34 of the claimed invention and therefore anticipating said portions 34.

With regard to applicant's argument that Molas does not teach that side areas 4,5 have dimensions so as to overlap, Examiner disagrees. The very function of side areas 4,5 when liner 1 is used with a thong panty is to wrap around and adhere. Examiner reminds applicant that in claim 11, the limitation reads: "said wing portions having dimensions so as to wrap at least partially around the crotch portion of the undergarment". A prior art reference would therefore only need to teach a wing portion capable of adhering to the garment itself as opposed to forming an overlap region by being capable of wrapping entirely around the crotch portion. Molas clearly satisfies the limitation of "at least partially wrap[ping] around". This limitation is inconsistent with the limitation of an overlap region, however Examiner is not objecting to the inconsistency in this Office action because Examiner believes that the Molas reference satisfies both limitations as Molas is clearly teaching a central pad area configured to fit properly in a thong undergarment. Since the entire liner 1 is hourglass-shaped, the side area portions complement the pad area in shape and size and would therefore have to be capable of

overlapping, i.e. the side areas overall are of sufficient size to overlap and the only way that they would not be able to would be if the pad area were larger, and since Molas is teaching a pad area for a particular undergarment, it follows that Molas would not teach a central pad area 3 that is too large to fit in that same type of garment.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 11 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There is no support in the disclosure for a plurality of laterally inboard fold lines. There is support for two fold lines 42 transversely opposed to one another. Examiner believes that applicant is implying that the two fold lines 42 are either separate from or among the plurality of fold lines claimed in Claim 11, and neither of those possible features is supported in the disclosure and thus the limitation of a plurality of fold lines represents new matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 6-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Molas (U.S. Patent Application Publication No. 2002/0077618).

With respect to **Claims 1,6,10,11**: Molas teaches a pantiliner with a liquid impermeable baffle, a liquid permeable liner and an absorbent core placed therebetween (Paragraphs 0022, 0023). Molas teaches side portions 4,5 that extend beyond the lateral edges of central area 3 which is in absorbent service when applied to the user's undergarment (Paragraph 0011). Molas teaches that the side areas are folded under the panty along fold lines 2 when used with a thong panty (Paragraph 0010). As can best be seen from Figs. 1 and 2, and that Molas teaches that the side areas 4,5 are extensions of a uniform laminate structure defining pantiliner 1, the side areas 4,5 extend the entire length of the pantiliner 1 and thus extend longitudinally on both sides of the transverse centerline of pantiliner 1. As also can best be seen from Figs. 1 and 2, the fold lines, which Molas teaches define the central area 3 extend at an angle away from the lateral sides of central area 3 toward the outer corner of the outer edges of the side areas 4,5. The configuration of the fold lines 2 and side areas 4,5 as taught by Molas is interpreted herein as causing a fold configuration that clearly results in an overlap region on both side areas 4,5 that resides entirely on one side of the transverse centerline. Molas teaches that the napkin in its entirety is hourglass shaped (Paragraph 0011), therefore the longitudinal forwardmost edges of the side areas 4,5, which are coterminal with the longitudinal edge of the napkin as a whole will

be arcuate to match the farthest longitudinal edge, therefore the forwardmost edge of the side areas 4,5 must extend at an angle from the lateral side of said napkin.

With respect to **Claim 2**: As can best be seen from either of Figs. 1 and 2, Molas teaches outboard edges of side areas 4,5 that taper from an overlap region when the garment used is a thong garment toward the side edges of central absorbent area 3.

With respect to **Claim 3**: Molas teaches that liner 1 has a slightly hourglass shape in which side areas 4,5 acting as wing portions that are equivalent to those of the claimed invention in definition and scope have overlapping portions that are disposed at a forwardmost edge of liner 1. (Figs. 1,2) (¶ 0033)

With respect to **Claim 4**: As can be seen from Figs. 1 and 2 taught by Molas, the forwardmost edge extends perpendicularly from the corresponding tip of central area 3.

With respect to **Claims 7 and 8**: Molas teaches fold lines 2 embossed in pantiliner 1 that extend the entire length of pantiliner 1 at an angle with respect to the lateral edges, toward said lateral edges. Molas teaches that these fold lines allow the side areas to be folded over the liner in absorbent service when a conventional panty is in use, or folded under to conform to the shape of a thong panty when that type is in use. It would be obvious to someone of ordinary skill in the art to modify the bending biases taught by Nakanishi to extend the length of napkin 1 at an angle as taught by Molas as this allows the user more flexibility in choice of undergarment.

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With respect to **Claim 9**: Molas teaches application of adhesive to the backing under side areas 4,5. (¶ 0037)

With respect to **Claim 12**: As can best be seen from Figures 1 and 2, Molas teaches side areas 4,5 that are asymmetrically shaped.

With respect to **Claim 13**: Molas teaches that the periphery of the napkin includes side areas 4,5, interpreted here as meaning that the side areas span the entire length of each lateral edge (Paragraph 0033).

With respect to **Claim 14**: It is interpreted here that side areas 4,5 comprise an outer edge that extends in a direction generally perpendicular to the lateral edge of the napkin.

With respect to **Claim 15**: Molas teaches side areas that are asymmetric and substantially triangular in shape. A forwardmost edge is interpreted here as the edge shown in Figures 1 and 2 wherein the width of the side areas is at its greatest and the outer edge of the side areas 4,5 extends outward from the farthest edge toward said forward edge at an angle with respect to the longitudinal centerline. Since Molas teaches that the napkin in its entirety is hourglass shaped (Paragraph 0011), the longitudinal forwardmost edge of the side areas 4,5, which is coterminal with the longitudinal edge of the napkin as a whole will be arcuate to match the farthest longitudinal edge, therefore the forwardmost edge of the side areas 4,5 must extend at an angle from the lateral side of said napkin.

With respect to **Claim 16**: Molas teaches adhesive applied to the backing under the side areas 4,5 (Paragraph 0037), therefore the adhesive is interpreted herein as an attaching mechanism between overlap regions of each side area since the overlap regions are located on the side areas.

With respect to **Claim 17**: Molas teaches pantiliner 1 (Paragraph 0010).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Molas (U.S. Patent Application Publication No. 2002/0077618) in view of Nakanishi

With respect to **Claim 5**: Molas does not teach a forwardmost edge of an overlapping portion that extends toward a forwardmost longitudinal end of liner 1 at an angle. Nakanishi teaches in Fig. 26 an absorbent article 1 having wing portions 17 configured to fold around the crotch portion of an undergarment wherein a forwardmost edge of wing 17 extends at an angle from the side edges of article 1. Since the structure and function of these wing portions is substantially identical to the side areas 4,5 taught by Molas, Examiner is concluding that the wing configuration taught by Nakanishi is simply an alternate method of achieving the goal of protecting the undergarment by enabling the wing portions to fold around the side edges of an undergarment and securing said wing portions in place. In the instant case substitution of equivalent methods requires no express motivation, as long as the prior art recognizes

equivalency, *In re Fount* 213 USPQ 532 (CCPA 1982); *In re Siebentritt* 152 USPQ 618 (CCPA 1967); *Graver Tank & Mfg. Co. Inc. v. Linde Air Products Co.* 85 USPQ 328 (USSC 1950).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melanie J. Hand whose telephone number is 571-272-6464. The examiner can normally be reached on Mon-Thurs 8:00-5:30, alternate Fridays 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

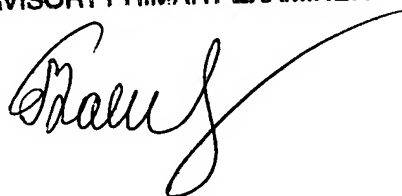
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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Melanie J Hand
Examiner
Art Unit 3761

MJH

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tatyana', with a long, sweeping horizontal line extending to the right.